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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

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LOK SABHA

The following Bills were introduced in Lok Sabha on 20th December, 1973:—

Bill No. 100 of 1973

A Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 1973. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

PART II

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1950

43 of 1950.

2. For section 13A of the Representation of the People Act, 1950 (hereafter in this Part referred to as the 1950-Act), the following section shall be substituted, namely:— Substitution of new section for section 13A.

"13A. (*1*) **There shall be for each State a Chief Electoral Officer and a Joint Chief Electoral Officer each of whom shall be such officer of Government as the Election Commission may, in consultation with the Government of the State, designate or nominate in this behalf:** Chief Electoral Officers and Joint Chief Electoral Officers.

Provided that no such officer shall ordinarily be transferred to any other post when a general election to the House of the People or to the Legislative Assembly of the State is in prospect.

(2) Where an election is in prospect, the officer of Government designated or nominated as Chief Electoral Officer shall, when so requested by the Election Commission, be relieved from the normal duties pertaining to his office or post, if the Election Commission is of opinion that such duties are interfering, or are likely to interfere, with the efficient discharge of his duties as Chief Electoral Officer.

(3) An officer of Government designated or nominated as Joint Chief Electoral Officer shall, on such designation or nomination, devote his whole time and attention to his duties as Joint Chief Electoral Officer and shall not discharge the functions of any other office.

(4) The State Government shall make available for the office of the Chief Electoral Officer such staff, gazetted and non-gazetted, as may be necessary for the due discharge of his functions in connection with elections to Parliament and to the State Legislature.

(5) Every person who immediately before the commencement of the Representation of the People (Amendment) Act, 1973, is holding the post of Joint Chief Electoral Officer in a State shall, on such commencement, be deemed to be a Joint Chief Electoral Officer designated or nominated for that State under this Act.

(6) Notwithstanding anything contained in the foregoing provisions of this section, it shall not be necessary to designate or nominate a Joint Chief Electoral Officer in a Union territory.

(7) Subject to the superintendence, direction and control of the Election Commission, the Chief Electoral Officer shall supervise the preparation, revision, correction and maintenance up-to-date of all electoral rolls in the State under this Act and all matters relating thereto and the Joint Chief Electoral Officer shall assist the Chief Electoral Officer in the performance of his functions under this Act and subject to the control of the Chief Electoral Officer, be competent to perform all or any of the functions of the Chief Electoral Officer.".

Amendment of section 13AA.

3. In section 13AA of the 1950-Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Subject to the superintendence, direction and control of the Chief Electoral Officer, the district election officer shall co-ordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation, revision, correction and maintenance up-to-date of the electoral rolls for all constituencies or parts thereof within such district or area and all matters relating thereto.".

Amendment of section 13B.

4. In section 13B of the 1950-Act,—

(a) in sub-section (1), for the words "prepared and revised", the words "prepared, revised, corrected and maintained up-to-date" shall be substituted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) An electoral registration officer shall perform such other functions in relation to the electoral roll of a constituency as he is required to perform by or under this Act.";

(*c*) in sub-section (*2*), for the words "the preparation and revision of the electoral roll for the constituency", the words "the preparation, revision, correction and maintenance up-to-date of the electoral roll for the constituency or for the performance of his other functions under this Act," shall be substituted.

Insertion of new section 13CC.

5. In Part IIA of the 1950-Act, after section 13C, the following section shall be inserted, namely:—

Transfer of electoral registration officer or assistant electoral registration officer not permissible during certain periods.

"13CC. No electoral registration officer or assistant electoral registration officer shall ordinarily be transferred at any time between the commencement of the preparation or revision of an electoral roll and the final publication of such roll.".

Amendment of section 14.

6. In section 14 of the 1950-Act, for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) **"qualifying date" means,—**

(*i*) **in relation to the preparation or revision of the electoral roll of a constituency, any of the following dates (which may be applicable) of the year in which the electoral roll, on its preparation or revision, is finally published, that is to say, the 1st day of January, the 1st day of April, the 1st day of July and the 1st day of October;**

(*ii*) **in relation to the inclusion of the name of a person as an elector in the electoral roll of a constituency after its final publication, the date on which an application is made by such person for the inclusion of his name in the electoral roll, or where such inclusion is made by the electoral registration officer on his own motion, the date on which the order for such inclusion is made.'.**

Substitution of new section for section 15.

7. For section 15 of the 1950-Act, the following section shall be substituted, namely:—

Electoral roll for every constituency.

"15. For every constituency, there shall be an electoral roll and every such electoral roll shall, subject to the superintendence, direction and control of the Election Commission, be prepared, revised, corrected and maintained up-to-date in accordance with the provisions of this Act and the rules, orders, instructions and directions made or issued thereunder.".

Amendment of section 20.

8. In section 20 of the 1950-Act, in sub-section (*8*),—

(*a*) in clause (*d*), the word "or" shall be added at the end, and

(*b*) after clause (*d*), the following clause shall be inserted, namely:—

(*e*) being an officer or seaman of the Indian Mercantile Marine to whom the Merchant Shipping Act, 1958, applies.". 54 of 1958.

Substitution of new sections for sections 21, 22 and 23.

9. For sections 21, 22 and 23 of the 1950-Act, the following sections shall be substituted, namely:—

Preparation, revision, correction and maintenance up-to-date of electoral rolls.

"21. (*1*) The electoral roll for each constituency shall be prepared in such manner as may be prescribed by reference to such qualifying date as may be applicable and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(*2*) The electoral roll prepared under sub-section (*1*) shall be revised in any year in such manner as may be prescribed by reference to such qualifying date as may be applicable if, and only if, such revision has been directed by the Election Commission.

(*3*) Notwithstanding anything contained in sub-section (*2*), the Election Commission may, at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

(*4*) The electoral roll revised under sub-section (*2*) or sub-section (*3*) shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(5) The electoral roll whether prepared under sub-section (*1*) or revised under sub-section (*2*) or sub-section (*3*), shall continue to be in force and in operation until the said electoral roll being revised under sub-section (*2*) or sub-section (*3*), or a new electoral roll being prepared under sub-section (*1*) comes into force and operation on its final publication.

(6) An electoral roll which continues to be in force and in operation under sub-section (5) shall be maintained always corrected up-to-date by correction of entries and inclusion of names therein in accordance with the provisions of section 22.

Maintenance of electoral rolls corrected up-to-date.

22. (*1*) For the purpose of maintaining an electoral roll corrected up-to-date, the electoral registration officer may, by order, direct,—

(*a*) the correction, on application made to him in this behalf, of the entries in the electoral roll,—

(*i*) by rectification of any error or defect in any entry, or in any particular in any entry, in the electoral roll;

(*ii*) by the transposition of any entry to another place in the electoral roll on the ground that the person to whom the entry relates has changed his residence within the constituency;

(*iii*) by the deletion of any entry in the electoral roll on the ground that the person to whom the entry relates is dead, or has ceased to be ordinarily resident in the constituency, or has become disqualified for registration in the electoral roll under section 16, or is not otherwise entitled to be registered as a voter in the electoral roll;

(*b*) the inclusion, on the application of any person, in the electoral roll of the name of such person, if he is not less than twenty-one years of age on the qualifying date and is otherwise entitled to be registered as a voter in the electoral roll.

(2) The electoral registration officer may also take action on his own motion under clause (*a*) or clause (*b*) of sub-section (*1*).

(3) Before taking any action under sub-section (*1*) or sub-section (2), the electoral registration officer shall satisfy himself by holding or causing to be held an inquiry that the action proposed to be taken is justified by the facts and circumstances of the case and, except where the entry is deleted on the ground of the death of the person concerned, give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

(4) No action shall be taken under the foregoing provisions of this section after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.

(5) In performing his functions under this section, the electoral registration officer shall be subject to such rules as may be made under this Act and also to such directions, general or special, if any, as may be issued by the Election Commission.

(6) Every person whether he is an officer of Government or not and every authority shall, when so requested by the electoral registration officer, furnish to him such information as he may require from time to time or at stated intervals for the maintenance up-to-date of the electoral roll.

(7) The State Government and every local authority in the State shall, when so requested by the electoral registration officer, make available to him such staff as may be necessary for maintaining the electoral roll always up-to-date.".

Provisions as to certain electoral rolls.

10. (1) An electoral roll in force and in operation immediately before the commencement of this Act shall, unless the Election Commission otherwise directs, be deemed to be an electoral roll prepared or revised in accordance with the provisions of the 1950-Act as amended by this Act and accordingly the provisions of the 1950-Act as so amended with respect to the maintenance of electoral rolls corrected up-to-date shall apply in relation to such roll.

(2) Where the work of preparation or revision of an electoral roll has started before the commencement of this Act but the electoral roll has not been finally published before such commencement, then, the electoral roll shall, subject to such instructions and directions, if any, as may be issued by the Election Commission, be prepared or revised in accordance with the provisions of the 1950-Act as amended by this Act before its final publication and accordingly the provisions of the 1950-Act as so amended with respect to the maintenance of electoral rolls corrected up-to-date shall apply in relation to such roll.

Amendment of section 24.

11. In section 24 of the 1950-Act, in clause (*a*), the words and figures "or section 23" shall be omitted.

Omission of section 25.

12. Section 25 of the 1950-Act shall be omitted.

Amendment of section 27.

13. In section 27 of the 1950-Act,—

(*a*) for clause (*e*) of sub-section (2), the following clause shall be substituted, namely:—

"(*e*) the provisions of sections 15, 16, 18, 22 [excluding sub-section (4) thereof] and 24 shall, as far as may be, apply in relation to local authorities' constituencies as they apply in relation to assembly constituencies.";

(*b*) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The provisions of clause (b) of section 14 and sections 15, 16, 18, 21, 22 and 24 shall, as far as may be, apply in relation

to graduates' constituencies and teachers' constituencies as they apply in relation to assembly constituencies.";

(*c*) in sub-section (5),—

(*i*) in clause (*b*), for the words "engaged in teaching", the words "engaged in teaching whether on a whole-time basis or on a part-time basis" shall be substituted;

(*ii*) after clause (*b*), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of clause (*a*), a person shall become a graduate of a university in the territory of India or acquire any of the qualifications specified in clause (*a*) of sub-section (3) on the day next following the day on which the results of the degree examination held by the university or the results of the qualifying examination held by the institution or authority concerned are published by the university, or, as the case may be, by such institution or authority.";

(*d*) sub-section (6) shall be omitted.

Amendment of section 27H.

14. In section 27H of the 1950-Act, the proviso shall be omitted.

Amendment of section 28.

15. In section 28 of the 1950-Act, in sub-section (2),—

(*i*) after clause (*f*), the following clause shall be inserted, namely:—

"**(*ff*) the requiring of officers charged with the duty of registration of deaths under any law for the time being in force, to forward to the electoral registration officer as soon as may be after the beginning of each month or any prescribed period, a list of names, addresses, occupations, ages and sexes together with the dates of death of all persons of the age of twenty-one years or above whose deaths have been registered during the month or period in respect of the area under the jurisdiction of such officer and situated in the constituency**";

(*ii*) for clause (*h*), the following clause shall be substituted, namely:—

"**(*h*) the revision, correction and maintenance up-to-date of electoral rolls and inclusion of names therein;**".

Amendment of Second Schedule.

16. In the Second Schedule to the 1950-Act, against the entry "West Bengal", for the figures "56" in column 6, the figures "55" and for the figures "17" in column 7, the figures "16" shall be substituted.

PART III

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment of section 2.

43 of 1951.

17. In section 2 of the Representation of the People Act, 1951 (hereafter in this Part referred to as the 1951-Act), in sub-section (1),—

(*i*) in clause (*bb*), for the word "appointed", the words "designated or nominated as such" shall be substituted;

(*ii*) after clause (*e*), the following clause shall be inserted, namely:—

'(*f*) "Joint Chief Electoral Officer" means the officer designated or nominated as such or deemed to be designated or nominated under section 13A of the Representation of the People Act, 1950;'; 43 of 1950.

(*iii*) after clause (*i*), the following clause shall be inserted, namely:—

'("(*j*) any reference in this Act to the district election officer shall, in relation to a Union territory, be construed as a reference to the returning officer.".

Amendment of section 8.

18. In section 8 of the 1951-Act,—

(*a*) in sub-section (*1*),—

(*i*) after the words, figures and letter "under section 153A", the words, figures and letter "or section 153B" shall be inserted;

(*ii*) for the words and figures "or under section 125", the words, figures, brackets and letters "or under section 10 or section 11 or section 12 or sub-section (*1*) or sub-section (*2*) of section 13 of the Unlawful Activities (Prevention) Act, 1967, or under section 125 or section 125A or section 125B or section 125C or section 133" shall be substituted; 37 of 1967.

(*b*) in sub-section (*3*), after the words, brackets and figures "notwithstanding anything in sub-section (*1*) and sub-section (*2*)", the words and figures "and without prejudice to the provisions of section 426 of the Code of Criminal Procedure, 1898" shall be inserted. 5 of 1898.

Substitution of new section for section 8A.

19. For section 8A of the 1951-Act, the following section shall be substituted, namely:—

Disqualification for corrupt or illegal practice.

"8A. (*1*) A person found guilty of a corrupt practice, by an order under section 99, shall be disqualified for a period of six years from the date on which that order takes effect.

(*2*) A person found guilty of an illegal practice, by an order under section 99, shall be disqualified for a period of four years from the date on which that order takes effect.".

Substitution of new section for section 9A.

20. For section 9A of the 1951-Act, the following section shall be substituted, namely:—

Disqualification for contracts with Government, etc.

"9A. A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the Central Government or a State Government for the supply of goods to, or for the execution of any works undertaken by, that Government or with any company or corporation (other than a co-operative society) in the capital of which the Central Government or a State Government has not less than twenty-five per cent. share.

Explanation.—For the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the Government or the said company or corporation, the contract shall be deemed not to subsist by reason only of the fact that the Government or the company o rthe corporation has not performed its part of the contract either wholly or in part.".

Amendment of section 10A.

21. In section 10A of the 1951-Act, in clause (*a*) for the words "an account of election expenses", the words "a return of election expenses" shall be substituted.

Substitution of new section for section 11A.

22. For section 11A of the 1951-Act, the following section shall be substituted, namely:—

Disqualification arising out of conviction and corrupt and illegal practices.

"11A. If any person, after the commencement of this Act,—

(*a*) is convicted of an offence punishable under section 153A, or section 153B, or section 171E, or section 171F, or sub-section (*2*), or sub-section (*3*) of section 505 of the Indian Penal Code, or under section 125, or section 125A, or section 125B, or section 125C, or section 133, or section 135, or clause (*a*) of sub-section (*2*) of section 136 of this Act, he shall, for a period of six years from the date of conviction, be disqualified for voting at any election; 45 of 1960.

(*b*) is found guilty of a corrupt practice by an order under section 99, he shall, for a period of six years from the date on which the order takes effect, be disqualified for voting at any election;

(*c*) is found guilty of an illegal practice, by an order under section 99, he shall, for a period of four years from the date on which the order takes effect, be disqualified for voting at any election.".

Amendment of section 19A.

23. In section 19A of the 1951-Act, for the marginal heading, the following marginal heading shall be substituted, namely:—

"Discharge of functions of Election Commission by certain authorities.".

Amendment of section 22.

24. In section 22 of the 1951-Act,—

(*a*) in sub-section (*1*), for the words "in the performance of his functions", the words "in the performance of his functions; and every such person shall be referred to as an assistant returning officer" shall be substituted;

(*b*) in sub-section (*2*), in the proviso, for the words "the said function", the words "any such function" shall be substituted.

Amendment of section 23.

25. In section 23 of the 1951-Act, for the words "authorised to perform", the words "competent to perform" shall be substituted.

Insertion of new section 24A.

26. After section 24 of the 1951-Act, the following section shall be inserted, namely:—

Transfer of district election officer or returning officer not permissible under certain circumstances.

"24A. No district election officer or returning officer shall ordinarily be transferred at any time within four months immediately preceding the date on which the notification calling a general election to the House of the People or the Legislative Assembly of a State may be, or is likely to be, issued and before the date of the declaration of the result of the election in the constituency.".

Substitution of new section for section 25.

27. For section 25 of the 1951-Act, the following section shall be substituted, namely:—

Polling stations for constituencies.

"25. (*1*) **The district election officer shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations, stationary, and, if necessary, also mobile polling stations, for every constituency the whole or greater part of which lies within the local limits of his jurisdiction; so, however, that each polling station shall be within the easy reach of every elector of the polling area for which a polling station has been provided.**

(*2*) For the purpose of sub-section (*1*), the district election officer shall prepare a draft list showing—

(*a*) the total number of polling stations proposed to be provided for the constituency;

(*b*) the number of stationary polling stations;

(*c*) the number of mobile polling stations, if any;

(*d*) the name and description of each polling station;

(*e*) the polling area or the group of electors for which each polling station is proposed to be provided and the number of electors in each polling area;

(*f*) the maximum distance which an elector will have to walk to reach the polling station; and

(*g*) such other particulars, if any, as may be specified by the Election Commission.

(*3*) The district election officer shall—

(*a*) publish for criticism copies of the draft list in some conspicuous place in his office and in other suitable places within the constituency;

(*b*) hear objections, if any, regarding the draft list; and

(*c*) after making such changes, if any, in the draft list in the light of the objections received,

forward the same to the Election Commission for its approval.

(4) On receiving the draft list, the Election Commission may approve the draft list and, before such approval, call for such information from the district election officer as it may consider necessary.

(5) The list as approved by the Election Commission shall be published by the district election officer in such manner as the Election Commission may direct.".

Amendment of section 26.

28. In section 26 of the 1951-Act, sub-section (5) shall be omitted.

Amendment of section 30.

29. In section 30 of the 1951-Act, in clause (*d*), for the words "twentieth day", the words "seventeenth day" shall be substituted.

Amendment of section 31.

30. In section 31 of the 1951-Act, for the words "specifying the place at which the nomination papers are to be delivered", the following shall be substituted, namely:—

"specifying—

(*a*) the date or dates on which, and the time and place at which, the forms of nomination may be obtained; and

(*b*) the dates on which, and the time and place at which, the nomination papers are to be delivered.".

Amendment of section 33.

31. In section 33 of the 1951-Act,—

(*a*) in sub-section (*1*), after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that no paper purporting to be a nomination paper of a candidate which is—

(*a*) delivered to the returning officer before eleven o'clock in the forenoon or after three o'clock in the afternoon on any day on which a nomination paper may be delivered in accordance with law, or

(*b*) delivered by any person other than the candidate in person or his proposer, or

(*c*) received by the returning officer by post or in any other manner,

shall be treated by the returning officer as a nomination paper and any such paper shall be rejected as soon as it is received by the returning officer and shall not be given any serial number under section 35 or be taken up for scrutiny under section 36.";

(*b*) after sub-section (*1*), the following sub-sections shall be inserted, namely:—

"(*1A*) No person shall sign as proposer any nomination paper or papers of more than one candidate at the same election in a constituency and if he does so, then, of all the nomination papers signed by him as proposer, only the nomination paper

or papers of the candidate which or one of which is delivered first to the returning officer shall be accepted and the nomination papers of all the other candidates shall be rejected as soon as they are received by the returning officer and shall not be given any serial number under section 35 or be taken up for scrutiny under section 36.

(*1B*) The returning officer shall, at the time of the presentation of the nomination paper, remind the candidate or his proposer of the candidate's obligation to make and subscribe the oath or affirmation at any time before the time fixed under section 35 for the scrutiny of nomination.";

(c) in sub-section (3), for the words, brackets, letter and figure "clause (*f*) of section 7", the word and figure "section 9" shall be substituted;

(d) for the proviso to sub-section (6), the following provisos shall be substituted, namely:—

"Provided that, under no circumstances, more than four nomination papers shall be delivered by or on behalf of any candidate, or accepted by the returning officer for election in the same constituency:

Provided further that—

(*i*) a person shall not be nominated as a candidate for election in more than two constituencies of the same class; and

(*ii*) a declaration to that effect—

(*a*) shall be made in the nomination paper itself, or

(*b*) shall be filed along with the nomination paper.".

Amendment of section 35.

32. In section 35 of the 1951-Act, after the words "the hour at which the nomination paper has been delivered to him", the words, brackets, figures and letter "and also stating whether the oath or affirmation in the form set out for the purpose in the Third Schedule to the Constitution has been made and subscribed by the candidate, and where this has not been done, whether he has reminded, under sub-section (*1B*) of section 33, the candidate or his proposer of the candidate's obligation to make and subscribe the oath or affirmation at any time before the time fixed under this section for the scrutiny of nominations" shall be inserted.

Amendment of section 36.

33. In section 36 of the 1951-Act,—

(*a*) in sub-section (*1*), for the words and figures "which have been delivered within the time and in the manner laid down in section 33", the words, brackets, figures and letter "other than those which have been rejected by him under the second proviso to sub-section (*1*) of section 33 or under sub-section (*1A*) of that section" shall be substituted;

(*b*) in sub-section (*2*), for the words "the nomination papers", the words, brackets, figures and letter "all the nomination papers other than those which have been rejected by him under the second proviso to sub-section (*1*) of section 33 or under sub-section (*1A*) of that section" shall be substituted;

(c) in sub-section (*3*), the following shall be inserted at the end, namely:—

"or if the full and correct particulars in respect of any candidate or his proposer or any other person or any place or other matter mentioned in one nomination paper can be gathered in respect of such candidate, such proposer, such other person, such place or such other matter from, or if any error in any nomination paper in respect of the serial number in the electoral roll or in respect of any other matter can be rectified by reference to—

(*a*) all the other nomination papers delivered by or on behalf of the candidate and taken up for scrutiny under sub-section (*1*); and

(*b*) any copy of any electoral roll or part thereof or any certified copy of relevant entries in any electoral roll filed along with any or all of such nomination papers.".

Amendment of section 50.

34. In section 50 of the 1951-Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) A contesting candidate or his election agent may himself do or assist in the doing of any act or thing which any polling agent or counting agent of such contesting candidate is required or authorised by or under this Act to do; and any act or thing required or authorised by or under this Act to be done in the presence of a polling agent or counting agent may be done in the presence of the contesting candidate or his election agent instead of the polling agent or counting agent.".

Amendment of section 51.

35. In section 51 of the 1951-Act, for the words "any such agent or agents", the words "any such agent or agents or of the contesting candidate or the election agent" shall be substituted.

Amendment of section 57.

36. In section 57 of the 1951-Act, in sub-section (*1*), the words "of such adjournment of the poll together with a detailed report setting out the reasons therefor and enclosing a copy of any complaint made to him by any person in this behalf" shall be inserted at the end.

Substitution of new section for section 58.

37. For section 58 of the 1951-Act, the following section shall be substituted, namely:—

Fresh poll in certain cases.

"58. (*1*) If at any election,—

(*a*) any ballot box or ballot papers used or intended to be used at a polling station or at a place fixed for the poll is or are—

(*i*) unlawfully taken out of the custody of the presiding officer or the returning officer, or

(*ii*) accidentally or intentionally destroyed or lost, or

(*iii*) damaged or tampered with to such an extent that the poll at that polling station or place is likely to be vitiated or that the result of the poll at that polling station or place cannot be ascertained; or

(*b*) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll; or

(c) there is not or has not been a free exercise of the right of voting at a polling station or at a place fixed for the poll by reason of the prevalence on a large scale of coercion and intimidation at that polling station or place, and information about the matter is received by the Election Commission from the returning officer or from any other source,

the Election Commission shall, after taking all material facts and circumstances into account, either,—

(*i*) if satisfied that there is good reason for directing a fresh poll, declare the poll at that polling station or place to be void, appoint a day and fix the hours for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed, in such manner as it may deem fit; or

(*ii*) if satisfied that the result of a fresh poll at that polling station or place will not in any way affect the result of the election, or that the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(*2*) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.".

Amendment of section 59.

38. In section 59 of the 1951-Act, for the words "given by ballot", the words "given by secret ballot" shall be substituted.

Amendment of section 61.

39. In section 61 of the 1951-Act,—

(*i*) in clause (*b*), the word "and" occurring at the end shall be omitted;

(*ii*) after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) for obtaining the signature or thumb impression of the elector on the counterfoil of the ballot paper before the delivery of such ballot paper to him.".

Substitution of new section for section 64.

40. For section 64 of the 1951-Act, the following section shall be substituted, namely:—

Counting of votes and recount.

"64. (*1*) At every election where a poll is taken, votes shall be counted by, or under the supervision and direction of, the returning officer and each contesting candidate, his election agent and his counting agents shall have a right to be present at the time of counting.

(2) At any time before the declaration of the result of an election, the returning officer may order recount of the votes either wholly or in part:

Provided that the returning officer shall also order recount of the votes when so directed by the Election Commission before the declaration of the result under any provision of this Act.

(3) The same procedure shall, as far as may be, be followed in a recount as in the original count.".

Amendment of section 64A.

41. In section 64A of the 1951-Act, for sub-sections (1) and (2), the following sub-sections shal be substituted, namely:—

"(1) If at any time before the counting of votes is completed, any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out, or are found to have been unlawfully taken out, of the custody of the returning officer or are accidentally or intentionally destroyed, lost, damaged or tampered with or are found to have been accidentally or intentionally destroyed, lost damaged or tampered with, to such an extent that the returning officer is of the opinion that the poll at that polling station or place has been vitiated, or that there is reasonable ground for suspicion that the result of the poll at that polling station or place will not reflect or indicate the real choice of the electors entitled to vote at that polling station or place or that the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith stop the counting and report the matter to the Election Commission for its direction.

(2) On receipt of a report under sub-section (1), the Election Commission shall, after taking all material facts and circumstances into account, either—

(a) declare the poll at that polling station or place to be void and direct that—

(i) the counting of votes at that polling station or place which has already been stopped by the returning officer shall remain stopped,

(ii) a fresh poll shall be taken at that polling station or place,

(iii) the votes cast at that fresh poll shall be counted, and thereafter,

(iv) the result of the election shall be declared immediately; or

(b) if satisfied that the result of a fresh poll, if directed to be taken at that polling station or place will not in any way affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting which has been stopped by him and for the further conduct and completion of the election in relation to which the votes have been counted.

(2A) Where a direction for the taking of a fresh poll is ordered under clause (a) of sub-section (2), the Election Commission shall appoint a day and fix the hours, for taking such fresh poll and notify the date so appointed and the hours so fixed in such manner as it may deem fit.".

Substitution of new section for section 66.

42. For section 66 of the 1951-Act, the following section shall be substituted, namely:—

Declaration of results.

"66. (1) When the counting of the votes has been completed, the returning officer shall declare the result of the election in the manner provided by this Act or the rules made thereunder:

Provided that the result of the election shall not be declared, if the Election Commission issues any direction to that effect.

(2) Where the declaration of the result of an election has been withheld under a direction of the Election Commission under sub-section (1), the Election Commission shall, after taking all material facts and circumstances into account and after taking all such preliminary steps as it may deem fit,—

(a) direct the taking of a fresh poll at any polling station or place fixed for the poll after declaring the poll already taken thereat to be void; or

(b) direct that all the ballot papers used at the election shall be recounted by or under the supervision and direction of an officer nominated or designated by the Election Commission for the purpose; or

(c) make such other order in relation to the declaration of the result as it may deem fit.".

Substitution of new Chapter for Chapter VIII of Part V.

43. In Part V of the 1951-Act, for Chapter VIII, the following Chapter shall be substituted, namely:—

"CHAPTER VIII

ELECTION EXPENSES

Application of Chapter.

76. This Chapter shall apply only to elections to the House of the People and to the Legislative Assembly of a State.

Account of election expenses.

77. (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive.

(2) The account shall contain such particulars as may be prescribed.

Maximum amount of election expenses.

77A. (*1*) The total amount of election expenses which may be incurred or authorised by a candidate or his election agent at an election to the House of the People or, as the case may be, to the Legislative Assembly of a State shall not exceed such maximum amount as may be prescribed and the maximum so prescribed may be different for different States.

(*2*) The said maximum amount shall not include—

(*a*) any amount not exceeding five hundred rupees in the case of an election to the House of the People or two hundred and fifty rupees in the case of an election to the Legislative Assembly of a State which the candidate may be required to pay to a political party according to the rules of the party for being accepted as a candidate to be set up by it; or

(*b*) any amount required to be deposited by a candidate under section 34.

(*3*) Where a poll is countermanded on the death of a candidate in accordance with section 52, the said maximum amount shall be increased for all the remaining candidates whose nominations were found valid on scrutiny and who did not withdraw their candidatures under section 37—

(*a*) by one-fourth of the said maximum amount where the poll is countermanded at any time within seven days next following the last date for withdrawal of candidatures;

(*b*) by one-half of the said maximum amount where a poll is countermanded at any time after the said period of seven days.

(*4*) The said maximum amount shall be increased for all the contesting candidates by the same amount as is specified in clause (*a*) or, as the case may be, in clause (*b*) of sub-section (*3*) where the poll is adjourned for any reason after the last date for withdrawal of candidatures.

Lodging of return of election expenses with the district election officer.

78. (*1*) Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate, lodge with the district election officer a return of his election expenses which shall be a true copy of the account kept by him or by his election agent under section 77.

(*2*) The reference to the district election officer in sub-section (*1*) shall, in relation to a constituency in a Union territory, be construed as a reference to the returning officer for that constituency.".

Substitution of new sections for sections 99 and 100.

44. For sections 99 and 100 of the 1951-Act, the following sections shall be substituted, namely:—

Other orders to be made by the High Court.

'99. (*1*) Where any charge is made in the election petition of any corrupt or illegal practice having been committed at the election, at the time of making an order under section 98, the High Court shall also make an order containing—

(*a*) a finding whether such corrupt or illegal practice has or has not been proved to have been committed at the election; and

(*b*) the names of all persons who have been proved at the trial to have been guilty of any such corrupt or illegal practice.

(2) Notwithstanding anything contained in sub-section (*1*), a person who is not a party to the election petition shall not be named under clause (*b*) of that sub-section unless—

(*a*) he has been given notice to appear before the High Court to show cause why he should not be so named; and

(*b*) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the High Court and has given evidence against him, of calling evidence in his defence and of being heard.

(*3*) The High Court may also make an order fixing the total amount of costs payable and specifying the persons by whom and to whom such costs shall be paid.

Grounds for declaring election to be void.

100. (*1*) Subject to the provisions of sub-section (2), if the High Court is of opinion—

(*a*) that on the date of his election, a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act, 1963; or

20 of 1963.

(*b*) that any corrupt or illegal practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(*c*) that any nomination has been improperly rejected; or

(*d*) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(*i*) by the improper acceptance of any nomination, or

(*ii*) by any corrupt or illegal practice committed in the interests of the returned candidate by an agent other than his election agent, or

(*iii*) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(*iv*) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

the High Court shall declare the election of the returned candidate to be void.

(2) If, in the opinion of the High Court, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt or illegal practice, but the High Court is satisfied—

(*a*) that no such corrupt or illegal practice was committed at the election by the candidate or his election agent, and every such corrupt or illegal practice was committed contrary to the orders, and without the consent of the candidate or his election agent;

(*b*) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt or illegal practices at the election; and

(c) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate or any of his agents,

then, the High Court may decide that the election of the returned candidate is not void.

(*3*) In this section, the expression "agent" has the same meaning as in section 123.'.

Substitution of new section for section 106.

45. For section 106 of the 1951-Act, the following section shall be substituted, namely:—

Transmission of decision of High Court to appropriate authority, etc., and its publication.

"106. As soon as may be after the receipt of an authenticated copy of the decision sent by the High Court under section 103, the Election Commission shall forward copies of the decision to the appropriate authority and in the case where such decision relates to an election to a House of Parliament or to an election to the House or a House of the Legislature of a State, also to the Speaker or Chairman, as the case may be, of the House concerned and shall cause the decision to be published,—

(*a*) where the decision relates to an election to a House of Parliament, in the Gazette of India as well as in the Official Gazette of the State concerned; and

(*b*) where the decision relates to an election to the House or a House of the Legislature of a State, in the Official Gazette of the State.".

Substitution of new Chapters for Chapter I of Part VII.

46. (*1*) In Part VII of the 1951-Act,—

(*i*) for the heading, the following heading shall be substituted, namely:—

"CORRUPT AND ILLEGAL PRACTICES AND ELECTORAL OFFENCES";

(*ii*) for Chapter I, the following shall be substituted, namely:—

'CHAPTER I

CORRUPT PRACTICES

Corrupt practices.

123. The following shall be deemed to be corrupt practices for the purposes of this Act:—

(*1*) "Bribery", that is to say,—

(*A*) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly, of inducing—

(*a*) a person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate at an election, or

(*b*) an elector to vote or refrain from voting at an election, or as a reward to—

(*i*) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(*ii*) an elector for having voted or refrained from voting;

(*B*) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(*a*) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate; or

(*b*) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation.—For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the return of election expenses referred to in section 78.

(*2*) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that—

(*a*) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(*i*) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(*ii*) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(*b*) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag, or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation.—In this clause, the expression "national emblem" includes—

(a) the emblem of the Republic or Union of India or of the Government of India or the pictorial representation thereof;

(b) the pictorial representation of Ashoka Chakra as used in the Indian National Flag or in the official seal or emblem of the Government of India or of any Ministry or Department of the Government of India.

(4) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, place of birth or language, or questioning the right of any class of citizens to possess, exercise or enjoy the rights of Indian citizenship, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(5) The Commission of any unlawful activity by a candidate or his agent or by any other person or association with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation.—In this clause and in section 125C, the expression "Unlawful activity" shall have the meaning assigned to it in the Unlawful Activities (Prevention) Act, 1967. 37 of 1967.

(6) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government or of a local authority.

Explanation.—(1) In this section and in section 124, the expression "agent" includes an election agent, a polling agent

and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

(2) For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.

CHAPTER II

ILLEGAL PRACTICES

Illegal practices.

124. The following shall be deemed to be illegal practices for the purposes of this Act:—

(1) (*a*) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent for the free conveyance of any elector or electors (other than the candidate himself, or his election agent, or the members of the candidate's family or of the election agent's family) to or from any polling station or place fixed for the poll, or

(*b*) the use of any vehicle or vessel, including a vehicle or vessel belonging to the candidate, or his election agent, for the free conveyance of any elector or electors (other than the candidate himself, or his election agent, or the members of the candidate's family or of the election agent's family) to or from any polling station or place fixed for the poll:

Provided that the hiring or use of a vehicle or vessel by an elector at his own cost or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be an illegal practice under this clause, if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tram-car or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be an illegal practice under this clause.

Explanation.—In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(2) The incurring or authorising of expenditure in contravention of section 77A.'.

(2) It is hereby declared that—

(*a*) any disqualification for membership,

(*b*) any disqualification for voting at any election,

incurred by any person by reason of the commission of any act which has ceased to be a corrupt practice under the 1951-Act, as amended by this Act, shall stand removed after the expiry of a period of four years from the date of incurring of the said disqualification.

47. After section 125 of the 1951-Act, the following sections shall be inserted, namely:— Insertion of new sections 125A, 125B and 125C.

'125A. (*1*) Any person who-- Coercion or intimidation of voters at elections.

(*a*) directly or indirectly, by himself or by any other person on his behalf uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict by himself or by any other person on his behalf, any injury, damage, harm or loss upon or against an elector in order to compel, frighten, induce or prevail upon that elector to vote or refrain from voting at an election, or to vote or refrain from voting in a particular way or for any particular candidate at such election; or

(*b*) by wrongful restraint, wrongful confinement, abduction or any other forcible or violent method, obstructs or prevents the free exercise by an elector of his right to vote at an election or thereby compels, frightens, induces or prevails upon an elector to vote or refrain from voting in a particular way or for any particular candidate at such election; or

(*c*) resorts to or threatens to resort to social or economic boycott of an elector in order to compel, frighten, induce or prevail upon that elector to vote or refrain from voting at an election, or to vote or refrain from voting in a particular way or for any particular candidate at such election,

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both

(*2*) In this section, the expressions "wrongful restraint", "wrongful confinement" and "abduction" shall have the meanings respectively assigned to them in the Indian Penal Code. 45 of 1860.

125B. (*1*) Any person who at an election applies for a ballot paper or cast his vote in the name of any other person, whether living or dead, or in a fictitious name, or who having cast his vote at such election, applies at the same election for a ballot paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both. Personation at elections.

(*2*) Nothing contained in section 171D of the Indian Penal Code shall apply in respect of an election held under this Act. 45 of 1860.

125C. Any person who in connection with an election under this Act commits any unlawful activity shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.'. Commission of unlawful activity.

Substitution of new section for section 126.

48. For section 126 of the 1951-Act, the following section shall be substituted, namely:—

Prohibition of public meetings during a period of seventy-two hours ending with hour fixed for conclusion of poll.

'126. (*1*) No person shall—

(*a*) convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(*b*) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(*c*) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

in any polling area during the period of seventy-two hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(*3*) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election.'.

Amendment of section 127.

49. In section 127 of the 1951-Act, in sub-section (*1*), for the words "with fine which may extend to two hundred and fifty rupees", the words "with imprisonment for a term which may extend to six months, or with fine, or with both" shall be substituted.

Substitution of new section for section 133.

50. For section 133 of the 1951-Act, the following section shall be substituted, namely:—

Penalty for illegal hiring or procuring or use of conveyances at elections.

"133. If any person is guilty of any such illegal practice as is specified in clause (*1*) of section 124 at or in connection with an election, he shall be punishable with fine which may extend to one thousand rupees.".

Amendment of section 134A.

51. In section 134A of the 1951-Act,—

(*i*) after the word "Government", the words "or of a local authority" shall be inserted;

(*ii*) after the words "of a candidate at an election", the following words shall be inserted, namely:—

"or canvasses for votes for a candidate or addresses any election meeting or indulges in any other election propaganda or campaign at an election".

Insertion of new section 134B.

52. After section 134A of the 1951-Act, the following section shall be inserted, namely:—

Prohibition of going armed to or near a polling station.

"134B. (*1*) No person shall, on a polling day, go armed with lethal weapons or arms, as defined in the Arms Act, 1959, of any kind within the neighbourhood of a polling station:

54 of 1959.

Provided that nothing contained in this sub-section shall apply to the returning officer, the presiding officer, a police officer on duty or any other person appointed to maintain peace and order at the polling station and on duty.

(*2*) If any person contravenes the provisions of sub-section (*1*), he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(*3*) Where a person is convicted of an offence under this section, the lethal weapons or arms, as defined in the Arms Act, 1959, found in his possession shall be confiscated to the Government.".

54 of 1959.

Amendment of section 135.

53. In section 135 of the 1951-Act, in sub-section (*1*), for the words "fraudulently takes", the words "fraudulently or with force or violence or show of force or violence takes", shall be substituted.

Substitution of new heading for the heading of Chapter IV of Part VIII.

54. In Part VIII of the 1951-Act, for the heading of Chapter IV, the following heading shall be substituted, namely:—

"POWER OF ELECTION COMMISSION IN CONNECTION WITH CERTAIN INQUIRIES".

Amendment of section 146.

55. In section 146 of the 1951-Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) For the purposes of any inquiry which the Election Commission may make—

(*a*) in connection with the tendering of any opinion to the President under article 103 or under sub-section (*4*) of section 14 of the Government of Union Territories Act, 1963, or under sub-section (*4*) of section 19 of the Delhi Administration Act, 1966, or to the Governor under article 192, or

20 of 1963.

19 of 1966.

(*b*) in a dispute regarding any election symbol,

the Election Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(*i*) discovery and inspection;

(*ii*) summoning and enforcing the attendance of any person as witness, requiring the deposit of his expenses and examining him on oath;

(*iii*) compelling the production of documents or other material objects producible as evidence;

(*iv*) granting adjournments;

(*v*) reception of evidence taken on affidavits;

(*vi*) requisitioning any public document or a copy thereof from any court or office; and

(*vii*) issuing commissions for the examination of witnesses or documents or other material objects producible as evidence,

and may summon and examine *suo motu* any person whose evidence appears to it to be material.

Explanation.—For the purpose of summoning and enforcing the attendance of any person as a witness the jurisdiction of the Commission shall extend to the whole of India.".

Amendment of section 158.

56. In section 158 of the 1951-Act,—

(*a*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) In the following cases, that is to say,—

(*a*) if the candidate is not shown in the list of contesting candidates prepared under section 38, or

(*b*) if, because of the death of the candidate, the poll is countermanded under section 52,

the deposit shall be returned in accordance with the provisions of sub-section (*1*) and sub-section (*2*).

(*3A*) The deposit shall also be returned in accordance with the provisions of sub-section (*1*) and sub-section (*2*) in the event of the candidate being elected.";

(*b*) in sub-section (*4*), for the word, brackets and figure "sub-section (*3*)", the words, brackets, figures and letter "sub-section (*3*) and sub-section (*3A*)" shall be substituted;

(*c*) in sub-section (*5*), for the brackets and figure "(*3*)", the brackets, figures and letter "(*3*), (*3A*)" shall be substituted.

57. After section 167 of the 1951-Act, the following section shall be inserted, namely:— Insertion of new section 167A

"167A. With a view to ensuring smooth, free and fair election, the Election Commission may, in exercise of its powers of superintendence, direction and control of elections vested in it by article 324, issue instructions and directions not contrary to the provisions of this Act or rules and orders made thereunder to any Chief Electoral Officer, district election officer, returning officer, assistant returning officer, presiding officer or any other officer or authority authorised or required to exercise any powers or perform any functions under this Act or the rules and orders made thereunder and it shall be the duty of the officers aforesaid to comply with such instructions or directions.". Issue of instructions and directions to election officers.

58. Save as otherwise provided in this Part, no amendments made by this Act in the 1951-Act shall apply to any election which has been called before the commencement of this Act and all matters in connection with such election shall be regulated in accordance with the provisions of the 1951-Act in force immediately before such commencement. Amendments made in 1951-Act not to apply to pending elections.

STATEMENT OF OBJECTS AND REASONS

The Election Law of India is contained in the Representation of the People Act, 1950 and the Representation of the People Act, 1951, the former dealing with matters pertaining to election prior to the stage of actual election and the latter dealing with the actual conduct of elections and matters connected therewith. The two Acts have been subjected to periodic amendments on the recommendations made by the Election Commission from time to time in the light of experience gained in the working of those Acts.

2. The present Bill also relates to recommendations in respect of the two Acts received from the Election Commission. In compliance with the assurance given by the former Law Ministers, they were referred to a Joint Committee of Parliament presided over by Shri Jagannath Rao, the earlier Committee presided over by Shri Ashok Sen having become *functus officio* consequent upon the dissolution of the Lok Sabha in 1970.

3. The recommendations made by the Election Commission as well as some other proposals which did not emanate from the Election Commission were considered very carefully and discussed in great detail by the Joint Committee on Amendments to Election Law, which made a comprehensive survey of the Election Law, including the laws of other countries and submitted its report in two Parts—Part I dealing with specific amendments to the Representation of the People Acts, 1950 and 1951 and Part II dealing with recommendations of a general nature, but having a bearing on Election Law. The Report of the Joint Committee has been carefully examined by Government and the comprehensive changes proposed in the prosent Bill are intended to give effect to such recommendations and suggestions as have been found acceptable.

4. Some of the more important proposals contained in the present Bill are briefly dealt with below.

(1) With a view to ensuring greater independence in the functioning of the various officers in-charge of elections and for avoiding any possible interference by the Governments in their working, it is proposed to provide that the Chief and Joint Chief Electoral Officers, Electoral Registration Officers, District Election Officers and Returning Officers shall not ordinarily be transferred during a stipulated period at the time of elections or when election is in prospect.

(2) In order to ensure that the maximum number of persons, who have completed 21 years of age prior to election and consequently are eligible to vote, are included in the electoral rolls, it is proposed to provide for four qualifying dates, namely, the 1st of January, the 1st of April, the 1st of July and the 1st of October (instead of one qualifying date, namely, the 1st of January as at present) for the purpose of preparation, revision and maintenance up-to-date of electoral rolls.

(3) It is also proposed to do away with even the existing nominal fee of ten paise and one rupee payable respectively for making an application and for filing an appeal regarding the inclusion of names in the electoral rolls.

(4) In addition to the officers to whom postal ballot facilities have been provided under the existing law, it is proposed to extend the same facilities to the officers and seamen of the Indian Merchant Navy.

(5) To ensure greater purity in elections, it is proposed to widen the provision relating to disqualification so as to provide that in cases where there exists a subsisting contract between the candidate and the Central Government or the State Government, or between him and a company or corporation (other than a co-operative society) in which the Central Government or the State Government has not less than 25 per cent. share, the candidate shall be disqualified for the purpose of election to Parliament as well as the State Legislature. It is further proposed to include cases of conviction under section 153B of the Indian Penal Code, or under some of the new sections relating to electoral offences proposed to be included in the Representation of the People Act, 1951, within the scope of section 8 relating to disqualification on conviction.

(6) With a view to eradicating the malpractices which mar a free and fair election, it is proposed to empower the Election Commission to order fresh poll in cases where the right of free exercise of vote has been hampered due to factors like coercion, intimidation, etc.; to make intimidation and coercion an electoral offence with a more severe punishment; to make impersonation at elections an electoral offence; and to provide for stringent punishment in cases relating to violation of orders prohibiting public meetings, etc.

(7) Having regard to the seriousness or gravity of the acts in question, which under the present law constitute corrupt practices under section 123 of the Representation of the People Act, 1951, it is proposed to split them up into two categories; namely, corrupt practices and illegal practices, which would respectively entail a disqualification for a period of six years and four years as against the present period of six years, which was being applied uniformly to all categories of corrupt practices. Under the revised scheme, from amongst the existing corrupt practices, the offences of hiring or procuring of vehicles for conveyance of voters and the incurring of expenditure in excess of the prescribed limits would be treated as constituting illegal practices. Incidentally, apart from making the periods of disqualification proportionate to the gravity of the offences, the classification now proposed would be in keeping with the provisions of article 326 of the Constitution. Incidentally, it may be mentioned that such a classification existed in the Representation of the People Act, 1951 prior to 1956.

5. The various provisions of the Bill are explained in detail in the Notes on clauses.

NEW DELHI;
The 7th December, 1973.

H. R. GOKHALE.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 7(30)|71-Leg.II, dated the 13th December, 1973 from Shri H. R. Gokhale, Minister of Law, Justice and Company Affairs to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951 recommends, under clause (3) of article 117 of the Constitution, the consideration of the Bill by the Lok Sabha.

Notes on clauses

Clause 2.—This clause seeks to substitute a new section for section 13A of the 1950-Act dealing with Chief Electoral Officers. At present, in every State there is either a Joint Chief Electoral Officer or a Deputy Chief Electoral Officer to assist the Chief Electoral Officer who, generally being a Secretary to the State Government, is not in a position to devote his whole-time to election work. But there is no statutory basis for the office of Joint Chief Electoral Officer, which has in fact been in existence over a period of years. The new section seeks to give a legal basis to the office of Joint Chief Electoral Officer. It precludes transfer of the Chief Electoral Officer and the Joint Chief Electoral Officer when a general election to the House of the People or to the Legislative Assembly is in prospect so as to enable the officers to function more independently and without any interference from the Government.

Clauses 3 *and* 4.—These clauses seek to amend sections 13AA and 13B to effect certain changes which are only of a drafting and consequential nature.

Clause 5.—This clause seeks to insert a new section 13CC in the 1950-Act which would ordinarily preclude the transfer of an electoral registration officer or an assistant electoral registration officer during certain periods with a view to avoiding the objection that such officers are being transferred during the course of preparation or revision of an electoral roll.

Clause 6.—This clause seeks to amend section 14 of the 1950-Act so as to provide for four qualifying dates in a year for the purpose of preparation, revision, correction and maintenance of electoral rolls up-to-date instead of one qualifying date as at present. This is to ensure that the maximum number of persons who have completed the age of 21 years prior to an election are included in the electoral roll.

Clause 7.—This clause seeks to substitute a new section for section 15 of the 1950-Act which deals with the electoral roll. The new section amplifies the existing provisions with reference to the proposal in clause 6 for four qualifying dates.

Clause 8.—This clause seeks to amend section 20 of the 1950-Act to extend the postal ballot facility to officers and seamen of the Indian Mercantile Marine.

Clause 9.—This clause seeks to substitute two new sections for the existing sections 21, 22 and 23 of the 1950-Act. The proposed substitution is by way of amplification of the existing provisions having regard to the provision for four qualifying dates for the purpose of preparing, revising, correcting and maintaining up-to-date the electoral rolls.

Clause 10.—This clause is a transitional provision which seeks to clarify the position that an electoral roll, which is in force immediately before the commencement of the Amending Act, or which is under preparation or revision at such commencement, shall be deemed to be the relevant electoral roll for the purpose of elections, which may be called during the pendency or revision of the existing electoral roll and before its finalisation.

Clause 11.—This clause makes a consequential amendment in section 24 of the 1950-Act.

Clause 12.—This clause seeks to omit existing section 25 of the 1950-Act which confers power to make rules prescribing the fee payable on an application for correction of an entry or inclusion of any name in an electoral roll or for preferring an appeal against the order of the electoral registration officer in this behalf. In other words, the fee of 10 paise and Re. 1 respectively, which are the fees prescribed by the rules for making an application or preferring an appeal are being done away with so that for such purposes no fee shall be charged in future.

Clause 13.—This clause makes certain consequential amendments in section 27 of the 1950-Act. In addition, it also seeks to include within the ambit of clause (*b*) of sub-section (5) of that section persons engaged in teaching even on a part-time basis. Besides, sub-section (*6*) of that section is sought to be omitted, the effect of which will be that the qualifying dates in relation to a graduates' constituency and a teachers' constituency shall be the same as those in relation to an Assembly constituency.

Clause 14.—This clause seeks to omit the proviso to section 27H of the 1950-Act as it has become a spent provision.

Clause 15.—This clause seeks to amend section 28 of the 1950-Act to enable the making of rules for requiring officers charged with the duty of registration of deaths, to forward to the electoral registration officers at stated intervals a list of names, etc., of electors who have died in the constituency with the dates of their death.

Clause 16.—This clause seeks to rectify a typographical error in the Second Schedule to the 1950-Act, which occurred at the time of the amendment of the Act in 1966.

Clause 17.—This clause, apart from making some changes of a verbal or clarifying nature, seeks to insert in section 2 of the 1951-Act a new definition of the expression "joint chief electoral officer" which office is being given statutory recognition.

Clause 18.—This clause, apart from making a minor amendment of a clarifying nature, seeks to amend section 8 of the 1951-Act so as to enlarge the scope of the disqualification on conviction for certain offences, by including therein reference to section 153B of the Indian Penal Code and sections 125A, 125B, 125C and 133 of the 1951-Act which respectively deal with the electoral offences of coercion or intimidation, personation, unlawful activity and illegal hiring or procuring or use of conveyances at elections.

Clause 19.—This clause seeks to substitute a new section for section 8A of the 1951-Act which deals with disqualification for corrupt practice.

Under the existing scheme, section 8A provides for disqualification for the commission of any of the corrupt practices set out in section 123 of the 1951-Act. According to the scheme now proposed, having regard to the seriousness or the gravity of the acts in question, the existing corrupt practices are being split up into corrupt practices and illegal practices. Under the new categorisation, the hiring or procuring of vehicles and the incurring of expenditure in excess of the prescribed limit are termed as "illegal practices". As a logical corollary of such a two fold classification as corrupt practices and illegal practices in the newly proposed section 8A, it is sought to be laid down that the disqualification for corrupt practice and illegal practice shall respectively be six years and four years from the date of the order.

Clause 20.—This clause seeks to substitute a new section for section 9A of the 1951-Act. Like the preceding clause, this clause also seeks to widen the scope of the disqualification specified in section 9A which deals with disqualification for contracts with Government. Under the existing provision, a subsisting contract between a person and the Central Government or the State Government, as the case may be, would have the result of disqualifying him for election to Parliament or the State Legislature, as the case may be. It is now proposed that regardless of the Government with which the contract subsists—be it the Central Government or the State Government—the contract would operate as a disqualification for election to Parliament as well as to the State legislature. It is further proposed to enlarge the scope of the section by providing for a similar disqualification in cases of a like contract with a company or corporation (other than a co-operative society) in which the Central Government or the State Government has not less than twenty-five per cent. share.

Clause 21.—This clause seeks to make a drafting alteration in section 10A of the 1951-Act.

Clause 22.—This clause seeks to substitute a new section for section 11A of the 1951-Act which regulates disqualification for voting arising out of conviction and corrupt practices. By the proposed substitution, the scope of section 11A is being enlarged in the same manner as the scope of section 8 is being enlarged by the inclusion of references to section 153B of the Indian Penal Code and sections 125A, 125B, 125C and 133 of the 1951-Act which deal respectively with the electoral offences of coercion or intimidation, personation and hiring, procuring or use of conveyances at elections. Further, the proposed new section seeks to effect certain changes similar to the changes effected in section 8A consequent on the new categorisation of corrupt and illegal practices.

Clauses 23 *to* 25.—These clauses seek to make changes which are either consequential or drafting in nature in sections 19A, 22 and 23 of the 1951-Act.

Clause 26.—This clause seeks to insert a new section 24A in the 1951-Act to provide that no district election officer or returning officer shall ordinarily be transferred during a stipulated period at the time of elections.

Clause 27.—This clause seeks to substitute a new section for section 25 of the 1951-Act which deals with the setting up of polling stations for the constituencies. By the proposed section, elaborate provision is being made for the guidance of the district election officer in

the matter of setting up of polling stations including mobile polling stations.

Clause 28.—This clause seeks to omit sub-section (5) of section 26 of the 1951-Act which has become unnecessary consequent on the definition of district election officer proposed in clause 17.

Clause 29.—This clause seeks to amend clause (d) of section 30 of the 1951-Act and by this amendment, the time-table of elections is sought to be reduced by three days which would result in some reduction in election expenses.

Clause 30.—This clause seeks to effect certain changes in section 31 of the 1951-Act which would be of advantage to the candidates. The effect of the proposed amendment will be that the returning officer will have to specify in the public notice of election itself the place at which nomination papers are to be delivered and the place at which the forms of nomination may be obtained and the dates on which and the time and place at which the nomination papers are to be delivered.

Clause 31.—This clause seeks to make several amendments in section 33 of the 1951-Act. The first amendment, seeks to insert a new proviso after the existing proviso to sub-section (*1*) with a view to putting an end to certain irregularities which have come to the notice of the Election Commission. By the next amendment, two new sub-sections are sought to be inserted after sub-section (*1*). The proposed sub-section (*1A*) provides that no person shall sign as a proposer any nomination paper or papers of more than one candidate at the same election. It further seeks to provide that where a person signs more nomination papers than one, then the returning officer shall accept the nomination paper or papers of the candidate which or one of which was delivered first in point of time and reject the rest and shall not give any serial number or take them up for scrutiny. The proposed sub-section (*1B*) seeks to make it incumbent on the part of the returning officer to remind the candidate or the proposer at the time of the presentation of the nomination paper the candidate's obligation to make and subscribe the oath before the time fixed for scrutiny. The next amendment is in sub-section (*3*) so as to remove an error. The last amendment seeks to substitute new proviso for the existing proviso to sub-section (*6*). The newly proposed provisos would preclude more than four nomination papers being delivered by or on behalf of a candidate or accepted by the returning officer for election in the same constituency and also preclude a person being nominated as a candidate for election in more than two constituencies of the same class, that is, of Parliament or Assembly.

Clause 32.—This clause seeks to amend section 35 of the 1951-Act so as to require the returning officer to state, in the certificate on the nomination paper, whether the required oath or affirmation has been made and subscribed and if not whether he has reminded the candidate in this behalf. This amendment would be of advantage not only to the candidates but also to the returning officers.

Clause 33.—This clause seeks to amend section 36 of the 1951-Act so as to clarify that reasonable facilities should be given for examining the nomination papers which have been delivered in accordance with the provisions of section 33 but only in respect of those papers which

have not been rejected by the returning officer under that section. It has been further made clear that the returning officer should rectify errors in the particulars specified in a nomination paper of a candidate if he could gather the correct particulars from other nomination papers delivered on behalf of the candidate.

Clause 34.—This clause seeks to substitute a new sub-section for sub-section (2) of section 50 of the 1951-Act to make it clear that any act or thing required or authorised to be done by or under the Act in the presence of a polling agent or counting agent may also be done in the presence of the contesting candidate or his election agent.

Clause 35.—This clause seeks to make an amendment in section 51 of the 1951-Act which is of a clarifying nature.

Clause 36.—This clause seeks to amend section 57 of the 1951-Act so as to require the presiding officer or the returning officer, in cases of adjournment of poll in emergencies, to enclose a copy of any complaint made to him by any person in this behalf.

Clause 37.—This clause seeks to substitute a new section for section 58 of the 1951-Act so as to make the provision more comprehensive. Under the existing provision, there can be no fresh poll in cases where ballot papers used or intended to be used at polling stations are unlawfully taken out of the custody of the presiding officer or the returning officer, or are accidentally or intentionally destroyed or lost or damaged or tampered with. The proposed section would enable the taking of a fresh poll even in such cases. That apart, under the present law, there is no provision for fresh poll at polling stations where, because of the prevalence of coercion or intimidation on a large scale, the members of the weaker sections of the community are prevented from exercising their franchise. The proposed section 58 is intended to meet this lacuna also.

Clause 38.—This clause seeks to amend section 59 of the 1951-Act to make it explicit that the vote shall be by secret ballot.

Clause 39.—This clause seeks to insert a new clause (*d*) in section 61 of the 1951-Act to enable the making of rules for the purpose of obtaining the signature or the thumb impression of the elector on the counterfoil of the ballot paper before the delivery of such ballot paper to him. The proposed amendment would be an effective check on impersonation at elections.

Clause 40.—This clause seeks to substitute a new section for section 64 of the 1951-Act which deals with counting of votes. The proposed provision seeks to incorporate in the law itself a provision for recount of votes instead of leaving it to be regulated by rules. Under the proposed provision, the returning officer may *suo motu* order recount of the votes either in whole or in part or may do so when so directed by the Election Commission before the declaration of the result. The procedure to be followed in cases of recount shall, so far as may be, the same as in the original count.

Clause 41.—This clause seeks to amend section 64A of the 1951-Act dealing with destruction, loss, etc., of ballot papers at the time of counting. This is being done with a view to widening the scope of the section

to include cases where the unlawful taking out of ballot papers or accidental or intentional destruction, loss, damage or tampering of ballot papers has taken place before the ballot papers are put in the custody of the returning officer and is discovered at the time of counting. The proposed amendments also seek to remove certain discrepancies.

Clause 42.—This clause seeks to substitute a new section for section 66 of the 1951-Act which deals with declaration of results. The amendment effected in section 66 in the year 1966 was limited in scope and merely provided that the power of the returning officer to forthwith declare the result of the election on the completion of the counting should be subject to any direction which might be issued by the Election Commission to the contrary. It is felt that this amendment did not go far enough nor does the section spell out the details of the procedure which is to be followed after the declaration of the result has been withheld for the time being after the completion of the counting. The proposed new section 66 seeks to spell out as to what exactly is to be done by the Election Commission in cases where the declaration of the result has been withheld.

Clause 43.—This clause seeks to substitute a new Chapter for Chapter VIII relating to election expenses in Part V of the 1951-Act. It is proposed to substitute four sections, namely, sections 76, 77, 77A and 78 for the existing sections 76, 77 and 78 of the 1951-Act. The principal change is the insertion of new section 77A which deals with the maximum amount of election expenses. Though the limit is to be prescribed by the rules, under the new provision, certain items are sought to be excluded in the computation of the maximum amount. The amounts that are sought to be excluded are the amount which a candidate is required to pay to a political party in accordance with the rules of the party for being accepted as a candidate and the amount of deposit to be made under section 34. An element of flexibility to the fixation of the maximum amount is also being ensured by providing for an increase of such maximum in cases where a poll is countermanded.

Clause 44.—This clause seeks to substitute new sections for sections 99 and 100 of the 1951-Act which respectively deal with certain orders to be made by the High Court and the grounds for declaring an election to be void. The proposed amendments are consequent upon the new categorisation adopted by the splitting up of the existing corrupt practices into corrupt and illegal practices.

Clause 45.—This clause seeks to substitute a new section for section 106 of the 1951-Act and the new section reproduces the existing section with drafting changes for greater clarity.

Clause 46.—This clause seeks to substitute two Chapters I and II for the existing Chapter I in Part VII of the 1951-Act. The existing Chapter I sets out eight categories of acts which constitute corrupt practices. By the proposed change, the corrupt practices are sought to be split up into two categories, namely, corrupt practices and illegal practics, having regard to the gravity or seriousness of the acts in question. Under the new categorisation, the hiring, procuring or use of conveyances at elections and the incurring of expenditure in excess of the prescribed limit would be classified as illegal practices. The revised scheme of such a classification should necessarily provide for different periods of disqualification for the commission of the corrupt practices or the illegal practices

and as explained under clause 18, it is proposed to amend section 8 of the 1951-Act so as to provide that the periods of disqualification for the corrupt and illegal practices shall be six years and four years respectively. Apart from the aforesaid classification, no substantial change has been effected in the relevant provisions excepting some minor ones of a drafting or verbal nature. In addition, it is proposed that any disqualification incurred by a person by reason of the commission of any act which has ceased to be a corrupt practice under the 1951-Act as amended by the proposed law shall stand removed after the expiry of a period of four years from the date of incurring of such disqualification. In other words, the law seeks to extend the benefit of a lesser period of disqualification which is now proposed for the commission of an illegal practice to certain persons who might have been disqualified under the law as it then existed for a longer period.

Clause 47.—This clause seeks to insert three new sections 125A, 125B and 125C in the 1951-Act which respectively seek to provide stringent punishment for the electoral offences of coercion or intimidation of voters, personation and unlawful activity at elections.

Clause 48.—This clause seeks to substitute a new section for section 126 of the 1951-Act which deals with prohibition of public meetings. The existing provision is very much limited in scope and it has been found by the Election Commission from experience that the provision has almost been rendered nugatory in a number of cases. The proposed amendment seeks to plug all the loopholes and also makes the punishment more stringent. Besides, the period of ban on public meetings is sought to be further extended to seventy-two hours ending with the hour fixed for conclusion of the poll.

Clause 49.—This clause seeks to amend section 127 of the 1951-Act dealing with disturbances at election meetings. Under the existing provision, the punishment for causing disturbance at public meetings is only a fine which may extend to Rs. 250. The proposed amendment seeks to enhance the punishment by providing for imprisonment for a term which may extend to six months or with fine or with both.

Clause 50.—This clause seeks to substitute a new section for section 133 of the 1951-Act which deals with penalty for illegal hiring or procuring of conveyances at elections. This amendment is consequential on the new classification of these offences as illegal practices.

Clause 51.—This clause seeks to amend section 134A of the 1951-Act which deals with penalty for Government servants for acting as election agent, polling agent or counting agent. The amendment seeks to include persons in the service of a local authority also within the ambit of the said section. It also seeks to widen the prohibited category of acts which would entail penalty by including acts of canvassing for votes for a candidate or addressing election meetings or indulging in any other election propaganda or campaign at an election.

Clause 52.—This clause seeks to insert a new section 134B of prohibit persons from going armed within the neighbourhood of a polling station. This is to prevent certain undesirable persons resorting to acts of terrorism at or near polling stations so as to hamper the free exercise of vote. A contravention of the section would entail punishment with imprisonment up to six months or with fine or with both.

Clause 53.—This clause seeks to amend section 135 of the 1951-Act to bring within its scope the act of taking away of ballot papers not only in a fraudulent manner but also with force and violence.

Clause 54.—This clause seeks to amend suitably the heading of Chapter IV in Part VIII of the 1951-Act.

Clause 55.—This clause seeks to amend section 146 of the 1951-Act which deals with the powers of the Election Commission. By the proposed amendment, the power of the Election Commission is sought to be enlarged to cover cases of inquiry into disputes regarding election symbols.

Clause 56.—This clause seeks to amend section 158 of the 1951-Act which deals with the return or forfeiture of a candidate's deposit. Besides making express provision for the return of a candidate's deposit in the event of his being elected, the proposed amendment seeks to streamline the existing provision and is of a clarifying nature.

Clause 57.—This clause seeks to insert a new section 167A in the 1951-Act to give a legal basis to the directions and instructions which are, from time to time, being issued by the Election Commission to the various officers in-charge of elections in the discharging of their duties in connection with elections.

Clause 58.—This clause makes it clear that the proposed amendments shall not apply to any election which has been called before the commencement of the proposed legislation.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to substitute a new section for the existing section 13A of the Representation of the People Act, 1950. At present, in every State there is a Joint Chief Electoral Officer or a Deputy Chief Electoral Officer to assist the Chief Electoral officer in the performance of his functions in connection with elections to Parliament and the State Legislatures. But the office of Joint or Deputy Chief Electoral Officer has no statutory sanction behind it although *de facto* it has been in existence for several years now. Since the scales of pay of the post may differ from State to State, it is not possible to furnish an accurate estimate of expenditure that may be involved in this regard. It is, however, estimated that the average monthly expenditure for a State on account of pay and allowances for the incumbent of the post of Joint Chief Electoral Officer may come to Rs. 1000. On this basis, the total annual expenditure for 21 States is likely to be about two lakhs and fifty-two thousand rupees. This expenditure will be incurred by the State Government in the first instance and will be shared on 50:50 basis between the Central and the State Governments. This may accordingly involve a recurring expenditure of Rs. 1,26,000 per annum from the Consolidated Fund of India.

Clause 6 seeks to amend the definition of "qualifying date" in section 14 of the Representation of the People Act, 1950. At present, the expression "qualifying date", in relation to the preparation or revision of electoral roll, means the first day of January of the year in which it is prepared or revised. As recommended by the Joint Committee, it is now proposed to provide that in relation to the preparation or revision of an electoral roll, there shall be four qualifying dates, namely, the first of January, the first of April, the first of July and the first of October of the year in which the electoral roll under preparation or revision is finally published. This is an enabling provision to ensure that the electoral roll is as up-to-date as possible when it is published. All expenditure in relation to preparation, revision or maintenance up-to-date of an electoral roll is to be shared on 50:50 basis between the Central and the State Governments. The introduction of four qualifying dates instead of one would result in enrolment of more number of persons in the electoral rolls and consequently some increase in every constituency in the cost of paper|printing in respect of an electoral roll. However, the additional expenditure, if any, in this behalf is expected to be only marginal.

Clause 8 seeks to insert a new clause (*e*) in sub-section (*8*) of section 20 of the Representation of the People Act, 1950 so as to extend postal ballot facilities to the officers and seamen of the Indian Merchant Navy. It is estimated that about 40,000 to 45,000 of such officers and seamen may become eligible for voting by postal ballot if such facilities are extended to them. The expenditure on this account may roughly come to Re. 1|- per voter and the total expenditure on account of the extension of postal ballot facilities to the officers and seamen of the Merchant Navy may not exceed Rs. 50,000 per General Election. This expenditure is to be

shared on 50:50 basis between the Central and the State Governments, if elections to Parliament and State Legislatures are held simultaneously and completely by the Centre, if elections to Lok Sabha are held independently of the elections to the State Legislatures.

Clause 12 of the Bill seeks to omit section 25 of the Representation of the People Act, 1950 which provides that every application for correction of entries or for inclusion of names in the electoral rolls and every appeal preferred in that connection should be accompanied by a prescribed fee which shall, in no case, be refunded. The abolition of the fee by the proposed deletion of section 25 would necessarily result in the loss of some revenue. The quantum of loss would depend upon the number of applications received for inclusion of names in the electoral rolls and also the number of appeals preferred and this will vary from time to time and place to place.

Clause 15 seeks to amend section 28 of the 1950-Act with a view to empowering the Central Government to make rules requiring the officers charged with the duty of registration of deaths under any law for the time being in force, to forward to the Electoral Registration Officers at prescribed intervals, a list of names, with their addresses, occupations, sex, etc., together with the dates of death of all persons of the age of 21 years or above whose deaths have been registered during the month or period in respect of the area under the jurisdiction of such officer. This may involve some marginal additional expenditure by way of stationery, postage, etc.

Clause 27 seeks to substitute a new section for the existing section 25 in the Representation of the People Act, 1951 to make detailed provisions for the guidance of the district election officers in the matter of setting up of polling stations, including mobile polling stations. The proposed new section 25 only seeks to give statutory shape to the procedure already being followed in the matter of setting up of polling stations under the directions and instructions issued by the Election Commission. This clause, therefore, would not result in any additional expenditure.

Clause 37 seeks to substitute a new section for the existing section 58 of the 1951-Act relating to fresh poll in certain circumstances. This amendment seeks to enlarge the scope of the existing section. The additional expenditure that may be involved on account of enlarging the scope of the section will depend upon the number of cases and the number of polling stations where the Election Commission orders such fresh poll. This in turn will depend on the circumstances prevailing in each area.

Clause 41 which seeks to amend section 64A widens the scope of the existing section so that the Election Commission would be in a position to order fresh poll in certain other circumstances also. This is only an enabling provision to set right a lacuna in the existing law. Additional expenditure, if any, is likely to be only marginal, as cases of the type envisaged would occur very rarely.

The Bill when passed into law would not involve any non-recurring expenditure.

It may be mentioned that the expenditure incurred in any State on the preparation of the electoral rolls and the conduct of elections is borne

initially by the State Government but the Central Government contributes fifty per cent. of the expenditure incurred by the State Government on the following items:—

(i) election staff employed in the office of the Chief Electoral Officer and in the district election offices;

(ii) preparation and revision of electoral rolls;

(iii) storage and preservation of ballot boxes and other election material; and

(iv) the conduct of elections to the House of the People and the State Legislative Assembly when they are held simultaneously, including the payment of allowances/honoraria to Government servants and others placed on election duty. When the elections are not held simultaneously, the Central Government bears the entire expenditure incurred in respect of election to either House of Parliament and the State Government bears it in respect of elections to the State Legislature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 seeks to substitute a new section for section 15 of the Representation of the People Act, 1950. This section provides for the preparation, revision, correction and maintenance up-to-date of the electoral roll for every constituency in accordance with the provisions of the Act and the rules, orders, instructions and directions made or issued thereunder. Clause 9 seeks to substitute sections 21 and 22 for sections 21, 22 and 23 of the Representation of the People Act, 1950. The proposed section 21 *inter alia* seeks to empower the framing of rules regarding the manner of preparation and the manner of revision of electoral rolls with reference to the qualifying date and also regarding the final publication of the electoral rolls. Likewise, proposed section 22 envisages rules being made regarding the performance of the functions of the Electoral Registration Officer. Clause 15 seeks to amend section 28 of the Representation of the People Act, 1950 for the purpose of rules being made regarding the period within which officers in-charge of registration of deaths should forward information to the Electoral Registration Officer. Clause 39 seeks to amend section 61 of the Representation of the People Act, 1951 by inserting a new clause (*d*) which empowers the making of rules for obtaining the signature or thumb impression of the elector on the counterfoil of the ballot paper before the delivery of such ballot paper to him with a view to preventing personation of electors. Clause 43 seeks to substitute a new Chapter for Chapter VIII in Part V of the Representation of the People Act, 1951. One of the sections seeks to make provision regarding the maximum amount of election expenses which may be regulated by rules to be made in this behalf.

2. All the aforesaid matters in respect of which rules are to be made, are matters of detail or procedure and as such the delegation of legislative power involved is of a normal character.

BILL No. 107 OF 1973

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Orissa for the services of the financial year 1973-74.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Orissa Appropriation (No. 4) Act, 1973. Short title.

2. From and out of the Consolidated Fund of the State of Orissa there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Order made by the President on the 9th day of November, 1973 under article 357 of the Constitution and published with the notification of the Government of India in the Ministry of Finance No. S. O. 689 (E) of the said date] to the sum of eighteen crores, ninety-seven lakhs and sixty-two thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1973-74, in respect of the services specified in column 2 of the Schedule. Issue of Rs. 1897,62,000 from and out of the Consolidated Fund of the State of Orissa for the financial year 1973-74.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Orissa by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
4-A	Expenditure relating to the Rural Development Department	1,21,51,000	..	1,21,51,000
5	Community Development Projects, etc.	65,92,000	1,000	65,93,000
9	Ministers, Civil Secretariat and Other Expenditure relating to the Finance Department	77,000	1,000	78,000
11	Expenditure relating to the Education Department	40,04,000	16,000	40,20,000
13	Land Revenue	6,85,000	2,90,000	9,75,000
16	District Administration and Other Expenditure relating to the Revenue Department	2,76,29,000	..	2,76,29,000
17	Expenditure relating to the Industries Department	19,88,000	1,3000	20,01,000
17-A	Mines	1, 60,000	..	1,60,000
21	Tribal and Rural Welfare	3,11,000	1,000	3,12,000
23	Public Health	11,00,000	7,000	11,07,700
24	Irrigation	2,23,01,000	..	2,23,01,000
24-A	Lift Irrigation	20,77,000	..	20,77,000
25	Public Works	1,72,05,000	..	1,72,05,000
30	Transport Schemes	80,000	..	80,000
34	Expenditure relating to the Urban Development Department.	45,39,000	16,000	45,55,000
35	Animal Husbandry	18,70,000	..	18,70,000
37	Agriculture	29,04,000	1,000	29,05,000
42	Compensation for Abolition of Zamindari System and Other Expenditure relating to Revenue Department	80,00,000	..	80,00,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
43	Multi-purpose River, Irrigation and Electricity Schemes	3,32,02,000	2,90,000	3,34,92,000
46	Road and Water Transport Schemes	5,50,000	..	5,50,000
48	Capital Outlay on Industrial Development . . .	99,01,000	..	99,01,000
56	Capital Expenditure relating to Rural Development Department	3,18,00,000	..	3,19,00,000
	TOTAL .	18,91,26,000	6,36,000	18,97,62,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of articles 204 (1) and 205 of the Constitution read with the Proclamation issued under article 356 of the Constitution in respect of the State of Orissa on the 3rd March, 1973, to provide for the appropriation out of the Consolidated Fund of the State of Orissa of the moneys required to meet the supplementary expenditure charged on the Consolidated Fund of the State of Orissa and the grants made by the Lok Sabha for expenditure of the Government of Orissa for the financial year 1973-74.

K. R. GANESH.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 3(179)-B/73, dated the 15th December, 1973 from Shri K. R. Ganesh, Minister of State in the Ministry of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Orissa for the services of the year ending on the 31st day of March, 1974, recommends under clauses (1) and (3) of article 207 of the Constitution read with article 205 thereof and the Proclamation dated the 3rd March, 1973 issued under article 356, the introduction of the Orissa Appropriation (No. 4) Bill, 1973 in the Lok Sabha and also the consideration of the Bill.

2. The Bill will be introduced in the Lok Sabha after all the Supplementary Demands for Grants for 1973-74 have been voted.

S. L. SHAKDHER,
Secretary-General.

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